

PATENT COOPERATION TREATY

PCT


INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 11 APR 2006

WIPO PCT

Applicant's or agent's file reference PC0065	FOR FURTHER ACTION See Form PCT/PEA/416	
International application No. PCT/IB2005/000656	International filing date (day/month/year) 15.03.2005	Priority date (day/month/year) 15.03.2004
International Patent Classification (IPC) or national classification and IPC INV. A43B17/02 B29D31/518		
Applicant TECHNOGEL ITALIA S.R.L. et Al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 5 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 12.01.2006	Date of completion of this report 11.04.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Schölvinck, T.S. Telephone No. +31 70 340-3436	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2005/000656

Box No. I Basis of the report

1. With regard to the **language**, this report is based on
- ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1, 2, 5-9	as originally filed
3, 4	filed with the demand

Claims, Numbers

1-18	filed with the demand
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Drawings, Sheets

1/2, 2/2	as originally filed
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- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2005/000656

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-6,8-12,15-18
	No: Claims	1,7,13,14
Inventive step (IS)	Yes: Claims	2-6,8-12,15-18
	No: Claims	1,7,13,14
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V.

- 1 Reference is made to the following documents:

D2: US-A-3 724 106 (MAGIDSON H,US) 3 April 1973 (1973-04-03)

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D2 discloses (the references in parentheses applying to this document): a composite (layer 10 and 12) footwear insole having a front portion for interacting with the user's foot at the metatarsal region and at least partly at the plantar arch, and a rear portion for interacting with the foot over the heel region, whereby said rear portion has at least one layer of gel material (14d) whose plan size is substantially equal to that of said rear portion and smaller than the plan size of the entire insole to uniformly support the heel and absorb stresses acting thereon, said gel layer having an upper surface for interacting with the heel that has no discontinuities to further increase comfort.

Take note of the lip 18, size 1/32 inch (8 mm), which is so small that it does not appear to come into contact with the heel. This lip does not form part of the gel layer having an upper surface for interacting with the heel.

- 2.2 The subject-matter of the claim is thus not new in view of D2.

3 INDEPENDENT CLAIM 13

- 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 13 is not new in the sense of Article 33(2) PCT.

Document D2 discloses (the references in parentheses applying to this document): a method of manufacturing a footwear insole as claimed in one or more of the preceding claims, comprising the steps of forming a front portion (14b,14c) designed to interact with the foot at the metatarsal region and partly at the plantar arch (the insole is flat, the plantar arch is not), and forming a rear portion (14d), integral with

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/IB2005/000656

the front portion (14b,14c), and designed to interact with the heel, whereby it comprises the step of forming a gel layer, and molding it in a special mold (see column 9, line 56 to column 10, line 7), substantially over the whole plan size of said rear portion and less than the plan size of the entire sole.

The step of forming a gel layer includes the following steps in D2: blowmolding the insole, joining upper and lower surfaces (in a mold) by the application of heat and pressure. Thereafter, gel is injected in the cavities.

3.2 The subject-matter of the claim is thus not new in view of D2.

4 DEPENDENT CLAIMS 7, 14

Dependent claims 7, 14 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

5 DEPENDENT CLAIMS 2-6, 8-12, 15-18

The combination of the features of dependent claims 2-6, 8-12, 15-18 are neither known from, nor rendered obvious by, the available prior art.